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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,760	08/14/2001	Scott E. Hrastar	191910-1111	9487

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Scientific Atlanta, Inc.  
5030 Sugarloaf Parkway  
Lawrenceville, GA 30044

EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/929,760

Applicant(s)

HRASTAR ET AL.

Examiner

Jason P. Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see After Final Arguments, filed 12/04/2006, with respect to the rejection(s) of claim(s) 1-47 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, prosecution is re-opened and a new ground(s) of rejection is made in view of Goode.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 10-12, 14, 17-19, 21, 25, 29, 33, 35, 37, 39, 41, 44 and 45-47 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Goode et al. (U.S. Patent No. 6,163,272).

Referring to claim 1, Goode discloses a cable delivery network (see communications network 106 in Figure 1 and Column 3, Lines 58-62) for delivering digital data to a host location upon a subscriber initiated request (see Column 3, Line 66 through Column 4, Line 9), an apparatus for authenticating that the subscriber is

authorized to use said network (see session manager 104 in Figure 1 and Column 4, Line 65 through Column 5, Line 1).

Goode also discloses a network manager (see session manager 104 in Figure 1) including at least one database of authorized users and authorized unique identifiers for each of a plurality of authorized data communication devices (see Column 5, Lines 13-19 for storing a TID and PIN lookup table) and a validation agent (see the program memory 116 in Figure 1 which stores the PIN assignment routine and the access authorization routine, which is executed by the CPU 114 (see Column 4, Lines 20-31)).

Goode also discloses that the validation agent comprises logic to authorize the subscriber to access a first communications path by comparing first subscriber authentication information received from a data communication device associated with the host location with at least part of the at least one database comprising the authorized users (see Column 6, Lines 13-36 for authorizing access to a default level for services that can be accessed by the user), the first communications path providing at least a portion of connectivity between the host location and a head end of the cable data delivery network (see Column 6, Lines 43-45 for the default access level only allowing a user to use a subset of services provided by the cable headend, therefore a portion of connectivity is provided).

Goode also discloses logic to authorize the subscriber to access a second communications path, responsive to the first communications path authorization (see Column 6, Lines 45-56), by comparing a unique identifier of the data communication device that is received from the data communication device (see again Figure 2 for the

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PIN assignment routine which assigns a specific PIN to a user based on the user's requested service level) with at least part of the at least one database comprising the authorized unique identifiers for each of the plurality of data communication devices (see again Column 6, Lines 45-56 for comparing the PIN against the list of PINs stored in the look-up table discussed above), the second communications path providing at least a portion of connectivity between the host location and the head end of the cable data delivery network (see Column 6, Lines 45-65 for the request being for a service that is a non-default service, therefore an additional portion of connectivity is provided between the host and the head end).

Referring to claim 2, Goode discloses that said first subscriber authentication information includes a subscriber USERID (see Column 4, Line 52 through Column 5, Line 2).

Claims 10-11 correspond to claim 1, where Goode discloses that the first communications path is a PSTN link (see Column 3, Line 61) and bi-directional (Column 4, Lines 32-34).

Claim 12 corresponds to claim 1, where Goode discloses that the second communications path is a radio frequency cable link (see Column 3, Line 61).

Referring to claim 14, see the rejection of claim 1.

Referring to claims 17-19, see the rejection of claims 10-12, respectively.

Referring to claim 21, see the rejection of claim 1.

Referring to claim 25, see the rejection of claim 1.

Referring to claim 29, see the rejection of claim 1.

Referring to claim 33, Goode discloses that the data delivery is restrained until authorization is completed (see Column 6, Lines 52-54).

Referring to claims 35, 37, 39 and 41, see the rejection of claim 33.

Referring to claim 44, Goode discloses that the data communications device of the subscriber of the cable data network includes a cable data receiver for receiving said digital data (see Column 3, Line 46 through Column 4, Line 65), wherein said data communications device is uniquely identified by the unique identifier (see Column 5, Line 7 through Column 6, Line 65 and Figures 2 and 3).

Referring to claims 45-47, see the rejection of claim 44.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-9, 15-16, 34, 36, 38, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (U.S. Patent No. 6,163,272) in view of Bryer et al. (U.S. Patent No. 4,780,757).

Referring to claim 3, Goode discloses all of the limitations in claim 2, but fails to teach that the subscriber authentication information further includes a subscriber password in addition to the USERID.

Bryer discloses entering both a USERID and a password to gain access to a communications session with a cable headend (see Column 10, Lines 26-30).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the single USERID subscriber authentication information, as taught by Goode, using the additional password subscriber authentication information, for the purpose of controlling service use by subscription only (see Column 10, Lines 26-27 of Bryer).

Claim 4 corresponds to claim 3, where Bryer further discloses that the USERID and password are verified against the database (see Column 10, Lines 28-30), therefore, the database would inherently have to have a USERID and password in order to verify the USERID and password entered by the user.

Claim 5 corresponds to claim 4, where Bryer further discloses that said validation agent authorizes said subscriber to use said first communication path in accordance

with a comparison of said subscriber USERID and said subscriber password to USERIDs and passwords stored in said at least one database (see again Column 10, Lines 28-30 and further note Column 10, Line 38 through Column 11, Line 12).

Claim 6 corresponds to claim 5, where Goode further discloses that said data communication device associated with the host location includes a dial up device that further includes a cable data receiver for receiving said digital data (see Column 3, Lines 58-65 for receiving data from a cable headend (therefore receiving digital data at a cable data receiver) over a telephone network, therefore requiring a dial up device). Further note that Bryer also has a set top box that contains both a modem and tuner (see Figure 5).

Claim 7 corresponds to claim 6, where Goode further discloses that said dial up device is uniquely identified by the unique identifier that comprises an electronic identifying number, and wherein the unique identifier that is received from the data communication device includes the electronic identifying number (see the rejection of claim 1 and note that the PIN (personal identification **number**) of Goode is an electronic identifying number).

Claim 8 corresponds to claim 7, where Goode further discloses that said at least one database further includes authorized identifying number for each of a plurality of dial up devices including said dial up device (see Column 6, Lines 45-56).



Claim 9 corresponds to claim 8, where Goode further discloses that said validation agent authorizes said dial up device to receive said digital data over the second communications path in accordance with a comparison of said identifying number of said dial up device with said identifying numbers stored in said at least one database (see the rejection of claim 1 and again note Column 6, Lines 45-56).

Referring to claims 15-16, see the rejection of claims 3 and 7, respectively.

Claim 34 corresponds to claim 1, where Bryer discloses that the first subscriber authentication information comprises a password provided to the validation agent by the subscriber (see the rejection of claim 3) and Goode discloses that the unique identifier of the data communication device is a number provided to the validation agent by the data communication device associated with the host location (see the rejection of claim 7).

Referring to claims 36, 38, 40 and 42, see the rejection of claim 34.

4. Claims 22-24, 26-28 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (U.S. Patent No. 6,163,272).

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Referring to claim 22, Goode discloses all of the limitations in claim 21, but fails to teach that the first level of service is at a higher data rate than the second level of service.

The examiner takes Official Notice to the fact that a cable television headend can control the rate of transmission between multiple levels of service.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the cable headend, as taught by Goode, using the transmission rate control, for the purpose of assuring that user requested data be transmitted to the user's set top box in a guaranteed amount of time.

Claim 23 corresponds to claim 22, where Goode discloses that a first level of service operates over a bi-directional public switched television network (see Column 3, Line 61 and Column 4, Lines 32-34).

Claim 24 corresponds to claim 22, where Goode discloses that a second level of service operates over an RF cable link (see Column 3, Line 61).

Referring to claims 26-28, see the rejection of claims 22-24, respectively.

Referring to claims 30-32, see the rejection of claims 22-24, respectively.

#### ***Allowable Subject Matter***

5. Claims 13, 20 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce  
Primary Examiner  
Art Unit 2623

January 4, 2007

JASON SALCE  
PRIMARY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Jason Salce', is written over the printed name and title.